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## MEMORANDUM

**TO:** Sam Leto,  
Legislative Services Agency

**FROM:** Jean Davis,  
DIA General Counsel

**RE:** Government Oversight Committee Meeting

**DATE:** October 4, 2005

You recently requested copies of the notes I used at the last meeting of the Government Oversight Committee. Unfortunately, I did not prepare notes for the meeting and spoke, instead, from an outline containing citations to the relevant sections of Iowa Code Chapter 99B. I have, however, prepared this memo for you, which is sent in lieu of copies of notes. (I have really poor handwriting so this typed memo is probably more useful to you anyway!). If questions remain after reviewing the information provided below, please do not hesitate to contact me.

### Electrical and Mechanical Amusement Devices

H.F. 2562 set a maximum ceiling on the number of permissible registered electrical and mechanical amusement devices in Iowa at 6,928. This number was determined on April 28, 2004 when Governor Vilsack signed into law H.F. 2562, as the legislation specified that the number of registered devices would be capped at the number registered as of the effective date of the act. DIA developed an on-line system for registrations designed to ensure that the number of registered devices does not exceed the numeric cap and also developed a registration waiting list from which to issue new registrations any time the number of registered devices is less than the cap.

As of the date of the September 20, 2005, Government Oversight Committee meeting, DIA staff informed me that there were approximately 300 openings for registrations on the registration waiting list. As this list is fluid, it can change from day-to-day. However, this information suggests that there are 6,628 registrations currently in existence. In addition, as of June 2005, 566 registered amusement devices were located in convenience stores. According to DIA registration records, one convenience store chain has 202 of the registered amusement devices and only 7 locations have two devices.

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By January 1, 2006, all registered amusement devices must be equipped with a counting mechanism to measure the volume of business. In addition, registered amusement devices located in businesses with a class “B” or “C” beer permit shall be equipped with a security device that prevents operation of the device without action by the owner (this restriction was designed to prevent persons under 21 from operating the device. Lastly, H.F. 646, enacted this year, prohibits games of poker, blackjack or keno on these devices.

## **Social Gambling**

Prior to 1972, nearly all gambling was outlawed in Iowa. See e.g. Iowa Code chapter 725. In 1972, Iowa voters amended the Iowa Constitution to permit social gambling and in 1973, the General Assembly created permissible forms of social and charitable gambling. Iowa Const. amend. 34 (repealing Iowa Const. art. III, section 28); Iowa Acts, 65<sup>th</sup> G.A., ch. 153; see also Iowa Code chapter 99B.<sup>1</sup> All permissible forms of gambling in Iowa are statutorily created and Iowa Code sections 725.7 and 725.15 prohibit gaming, betting and gambling unless expressly authorized under state statute.

Iowa Code chapter 99B authorizes certain forms of permissible social and charitable gambling. This chapter provides a safe harbor from the general prohibitions found in Iowa Code chapter 725, as long as the statutory parameters for the authorized activity are strictly followed. The types of social gambling<sup>2</sup> discussed at the Government Oversight Committee meeting (and some of the relevant restrictions<sup>3</sup>) were as follows:

- Iowa Code section 99B.6-This section authorizes games where beer and liquor is sold. The holder of the liquor control license or beer permit must have a license issued by DIA. Gambling other than social games is not authorized. “Social games” is defined at Iowa Code section 99B.1(27) as “only the activities permitted by section 99B.12(2).” No participant may win or lose more than \$50.00 in a 24-hour period. Persons under the age of 21 may not participate in the gambling authorized by this section. A limited form of sports betting is authorized under this section, which specifies a \$5.00 wagering limitation and sets maximum winnings to all participants at \$500.00.
- Iowa Code section 99B.8-This section authorizes an “Annual Game Night.” Under this section, games of skill, games of chance, card games and raffles may be conducted during a period of 12 consecutive hours once each year. This event requires a license issued by DIA and may be conducted by a qualified organization or other sponsor. If conducted by a qualified organization, certain other restrictions in this section do not apply. However, Iowa Code section 99B.7(1)(d), governing games conducted by a qualified organization, provides that “cash prizes shall not be awarded in games other than bingo and raffles.”

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<sup>1</sup> The impetus for the constitutional amendment and subsequent legislation was the “bingo raids” of 1971 and 1972, during which bingo at a Northeast Iowa Catholic Church and carnival games at the Iowa state fair were shut down. Iowa’s actions received national media attention and accounts of these events may be found in The New York Times, January 24, 1975 at 15, col. 1; and “Fat City Iowa,” Newsweek, April 28, 1975, at 10. The 1973 legislative amendments creating certain types of permissible forms of social gambling also resulted in reports that Iowa had become a haven for gamblers and it was estimated that the new gambling industry handled an estimated \$37,000,000 in 1974. The New York Times, January 24, 1975, at 15, col. 1.

<sup>2</sup> Authorized gambling conducted by charitable organizations was not the focus of the meeting and is not discussed in this memo.

<sup>3</sup> Each of the sections authorizing gambling within Iowa Code chapter 99B contains separate requirements for the games that are authorized. This memo does not reference all of the applicable requirements.

- Iowa Code section 99B.9-This section authorizes gambling in public places. This section requires a license from DIA. The games authorized are limited to social games and no person may win or lose more than \$50.00 in a 24-hour period. This section does not contain an age restriction as in found in Iowa Code section 99B.6.
- Iowa Code section 99B.11-This section authorizes certain limited, bona fide contests. No license is required. No gambling may be used in conjunction with this contest and only the expressly authorized contests are permitted. H.F. 646, enacted this past session, provides that poker, blackjack, craps, keno, or roulette shall not be considered a bona fide contest under this section.
- Iowa Code section 99B.12-This section authorizes games between individuals. At the meeting, I likened this to the “poker in your garage” game between friends. No license is required. There must be a bona fide social relationship between all individuals, no cover charge or entrance fee may be imposed, and no participant can win or lose more than \$50.00 in a 24-hour period. There is no age restriction in this section.

Please let me know if I can be of further assistance and thank you for your patience in awaiting this memo.